



STORAGE NAME: h0845.CLAM

DATE: January 25, 2006

**Florida House of Representatives
Committee on Claims
Summary Claim Bill Report**

Bill #: HB 845
Sponsor: Rep. Mahon
Companion Bill: SB 62 by Sen. Aronberg
Special Master: Stephanie Birtman

Basic Information:

Claimants: Verlin Weaver

Respondent: City of Fernandina Beach

Amount Requested: \$400,000

Type of Claim: Equitable, based on a settlement wherein the City has agreed to pay Mr. Weaver a total of \$500,000 as follows: \$100,000 already paid pursuant to the statutory cap in s. 768.28(5), F.S.; \$200,000 to be paid 20 days after the law is enacted; \$100,000 to be paid on October 10, 2006; and \$100,000 to be paid on January 9, 2007.

Respondent's Position: Supports passage of the claim bill. First year funds are from savings realized from the privatization of the city's sanitation system.

Collateral Sources: Mr. Weaver received \$10,000 in uninsured motorist proceeds from Progressive Insurance. The initial \$100,000 payment covered all outstanding liens for his medical treatment.

Attorney's Fees: The claimant's attorney has attested that his fees are limited to 20% of the claim in compliance with s. 768.28(8), F.S. There are no outstanding costs. Lobbying fees are 5%, for a total attorney's fee of 25%.

Prior Legislative History: HB 23 was filed by Rep. Mahon in 2005, and died on the House calendar. SB 40 (2005) was filed by Sen. Aronberg, and was not heard by any Senate committee.

Procedural Summary: Mr. Weaver filed a negligence suit against the City of Fernandina Beach in the Fourth Judicial Circuit in and for Nassau County. While the City had insurance coverage, that coverage had been exhausted by a settlement reached with another victim in this accident. The City admitted liability and a bench trial was had on damages only. The parties requested that the judge withhold judgment pending settlement negotiations. The parties settled for a total of \$500,000 as outlined above, and a consent judgment was entered.

Facts of Case: On November 11, 2002, Mr. Weaver was stopped at the red light at the intersection of Olive Street and 8th Street in Fernandina Beach. He was wearing a seat belt. A city garbage truck traveling northbound on 8th Street rear-ended another car, causing the garbage truck to lose control, veer across the median, hit several other cars, roll over on top of Mr. Weaver's truck, and come to rest on the top of another vehicle. Mr. Weaver was life-flighted to Shands Trauma Center where he remained for approximately one month, and spent another 5 weeks in rehabilitation hospitals. He suffered a flail chest, ruptured spleen, fractured ribs, acute respiratory failure, and fracture of the left humerus. At the time of the accident, Mr. Weaver was a 67 year-old retiree of the Navy, who had his own pest control business. He now has lost all hearing in his right ear, has lost his spleen, has lost mobility and strength in his left arm and leg, and suffers from chronic shoulder pain.

SM: _____ SD: _____ Date: _____
Stephanie O. Birtman Stephanie O. Birtman